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September 5, 2014

BY ECF

Hon. Katherine B. Forrest
United States District Court
Southern District of New York
500 Pearl Street, Room 1950
New York, NY 10007

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Re: Flushing Bank v. Green Dot Corp. & Green Dot Bank, No. 13-cv-9120 (KBF) (AJP)

Dear Judge Forrest:

We represent Defendants and Counterclaimants (collectively, "Green Dot") in the above-referenced matter, and write on behalf of both Green Dot and Plaintiff and Counterdefendant Flushing Bank. Per the parties' September 3 letter to Your Honor, the parties hereby seek the Court's permission to forego the in-person bench trial scheduled for November 17, 2014 and proceed with a "Trial on the Papers/Summary Bench Trial" pursuant to Fed. R. Civ. P. 52(a). In light of the discovery conducted to date, the parties agree that an in-person trial is not necessary, and should the Court agree with the following proposal, the parties will waive their right to that in-person trial. The parties propose the following schedule:

- Moving Papers, Moving Declarations, *Daubert* Motions, Stipulated Facts, Contested Facts, Stipulated Exhibits, and Contested Exhibits: Wednesday, October 1
- Opposition Papers and Opposition Declarations: Tuesday, October 21 (the parties agree that in the event that additional exhibits are necessary following the parties' moving papers, the parties' will discuss a suitable system for those additional exhibits at that time, and should Your Honor agree, the parties would file those additional exhibits on October 21)
- Reply Papers and Reply Declarations: Friday, October 31

Subject to the Court's direction otherwise, the parties reserve their rights to seek leave to file *in limine* motions. The parties would defer to the Court's direction on the timing of such motions, and should such motions not be employed, the parties will include evidentiary objections in their submissions listed above.

In the interests of full disclosure, the parties have also agreed on the following interim deadlines before the proposed October 1 deadline for moving papers (the parties do not believe that the following deadlines would necessitate additional court filings):

- Flushing Bank Serves Proposed Stipulated Facts: Monday, September 15
- Parties Exchange Proposed Exhibits: Monday, September 15

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- Green Dot Serves Revised Proposed Stipulated Facts: Monday, September 22
- Parties Exchange Exhibit Lists with Objections: Monday, September 22
- Deadline for Meet and Confer Regarding Each Side's Exhibits: Thursday, September 25

Proposed Modified Page Limits for Memoranda of Law: In light of the issues to be addressed in the parties' papers (both claims and counterclaims), the parties also respectfully request Your Honor's permission to modify the prevailing page limits for Memoranda of Law so that moving memoranda are limited to 35 pages; opposition memoranda are limited to 30 pages; and reply memoranda remain at 10 pages. These page limits would be for merits briefs only, and potential *Daubert* motions would be governed by Your Honor's current rules.

Should Your Honor wish to discuss this proposal further with the parties, we are available at Your Honor's convenience. Green Dot and Flushing Bank thank Your Honor for your time and consideration.

Respectfully submitted,



Adam Siegartel

cc: Counsel for Flushing Bank (by ECF)

Ordered
Application granted.
The parties shall proceed
on the schedule indicated
above.

9/8/14

K B. Forster
USDJ